

this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

### (3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

(Pub. L. 100-690, title V, §5153, Nov. 18, 1988, 102 Stat. 4306; Pub. L. 105-85, div. A, title VIII, §809, Nov. 18, 1997, 111 Stat. 1838.)

#### REFERENCES IN TEXT

Executive Order 12549, referred to in subsec. (b)(2), is set out as a note under section 6101 of Title 31, Money and Finance.

#### AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-85, §809(1)(A), substituted “agrees to” for “has certified to the granting agency that it will” in introductory provisions.

Subsec. (a)(2). Pub. L. 105-85, §809(1)(B), substituted “agrees” for “certifies to the agency”.

Subsec. (b)(1)(A). Pub. L. 105-85, §809(2)(C), struck out “such certification by failing to carry out” after “violates”.

Pub. L. 105-85, §809(2)(A), (B), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: “the grantee has made a false certification under subsection (a) of this section;”.

Subsec. (b)(1)(B), (C). Pub. L. 105-85, §809(2)(B), redesignated subpars. (B) and (C) as (A) and (B), respectively.

#### EFFECTIVE DATE

Section effective 120 days after Nov. 18, 1988, see section 5160 of Pub. L. 100-690, set out as a note under section 701 of this title.

### § 703. Employee sanctions and remedies

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 701(a)(1)(D)(ii) or 702(a)(1)(D)(ii) of this title—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(Pub. L. 100-690, title V, §5154, Nov. 18, 1988, 102 Stat. 4307.)

### § 704. Waiver

#### (a) In general

A termination, suspension of payments, or suspension or debarment under this chapter may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines under section 701(b)(1) of this title, after the issuance of a final determination under such section, that suspension of payments, or termination of the contract, or suspension or de-

barment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

#### (b) Exclusive authority

The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

(Pub. L. 100-690, title V, §5155, Nov. 18, 1988, 102 Stat. 4307.)

### § 705. Regulations

Not later than 90 days after November 18, 1988, the governmentwide regulations governing actions under this chapter shall be issued pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(Pub. L. 100-690, title V, §5156, Nov. 18, 1988, 102 Stat. 4308.)

#### REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in text, is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

### § 706. Definitions

For purposes of this chapter—

(1) the term “drug-free workplace” means a site for the performance of work done in connection with a specific grant or contract described in section 701 or 702 of this title of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term “employee” means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 701 or 702 of this title;

(3) the term “controlled substance” means a controlled substance in schedules I through V of section 812 of title 21;

(4) the term “conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term “criminal drug statute” means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term “grantee” means the department, division, or other unit of a person responsible for the performance under the grant;

(7) the term “contractor” means the department, division, or other unit of a person re-